



# **NORTHWESTERN INDIANA REGIONAL PLANNING COMMISSION**

Together We Make The Difference

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## **RESOLUTION 08-07**

### **A RESOLUTION OF THE NORTHWESTERN INDIANA REGIONAL PLANNING COMMISSION TO ADOPT THE TRANSPORTATION AIR QUALITY PROTOCOL**

WHEREAS, the citizens of Northwest Indiana require a safe, efficient, and effective regional transportation system that maintains and enhances regional mobility and contributes to improving the quality of life in the region; and

WHEREAS, the Northwestern Indiana Regional Planning Commission, hereafter referred to as The Commission, being designated as the Metropolitan Planning Organization for the Lake, Porter and La Porte County planning area pursuant to 23 CFR 450 and 49 CFR 613, has established a region-wide, cooperative, comprehensive and continuing planning process to develop the unified planning work program, regional transportation plan and transportation improvement program. The Commission enacts plans and programs to facilitate federal, state and local funding for surface transportation improvements carried out by the Indiana Department of transportation, the region's communities, counties and transit operators, and provides technical assistance and expertise to regional transportation interests; and

WHEREAS, The Commission and the federal and state transportation and environmental agencies are collectively responsible for developing and implementing various portions of the federal air quality plans in the Lake, Porter and La Porte County Planning Area; and

WHEREAS, prior to adopting or amending the Regional Transportation Plan (RTP) and Transportation Improvement Plan (TIP), The Commission must first determine that these plans and programs conform to the state air quality plans for the Lake, Porter and La Porte County Planning Area (termed the State Implementation Plan, or SIP) using procedures established by the Environmental Protection Agency (EPA); and

WHEREAS, the responsible agencies have prepared a protocol for determining transportation air quality conformity in compliance with federal regulation entitled: Northwestern Indiana Regional Planning Commission TRANSPORTATION AIR QUALITY CONFORMITY PROTOCOL ("the Protocol"), which includes certain conformity procedures relating to transportation plans, programs, and projects, attached hereto as Attachment A, and the interagency consultation procedures, attached hereto as

Attachment B, and incorporated herein as though set forth at length; and

WHEREAS, the responsible agencies have crafted the Protocol to reflect the most recent guidance provided by the U.S. EPA; and


WHEREAS, Federal regulations for amending the SIP require a public hearing prior to adoption or changes to the Protocol, and the Indiana Department of Environmental Management will hold a public hearing on the protocol as proposed herein; and

WHEREAS, the Protocol must be submitted to the Indiana Department of Environmental Management (IDEM) for review and subsequent submittal to the United States Environmental Protection Agency (U.S. EPA) for revision of the Indiana State Implementation Plan (SIP),

NOW, THEREFORE BE IT RESOLVED, that the Protocol to be included in the Conformity SIP are approved for submission to IDEM and to U.S. EPA; and,

BE IT FURTHER RESOLVED, that the NIRPC staff may make minor adjustments, as necessary, to the Protocol in the Conformity SIP in response to IDEM and U.S. EPA comments.

Duly adopted by the Northwestern Indiana Regional Planning Commission on this seventeenth day of April, two thousand and eight.

  
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Joseph Stahura, Chairman

ATTEST:

  
\_\_\_\_\_  
Stanley Dobosz, Secretary

## ABSTRACT

### Resolution No. 08-07

This resolution approves "Northwestern Indiana Regional Planning Commission Transportation Air Quality Conformity Protocol," listed as Attachment A (conformity procedures) and Attachment B (interagency consultation procedures), for determining the conformity of the Regional Transportation Plan and Transportation Improvement Program with state and federal air quality plans and procedures. These two attachments constitute the "Conformity SIP" (the conformity portion of the state and federal air quality plan, called the State Implementation Plan) for the NIRPC Planning Area.

This Resolution will be submitted to the Indiana Department of Environmental Management (IDEM) and the U.S. Environmental Protection Agency (EPA) for approval as revisions to the Indiana State Implementation Plan (SIP), which governs transportation conformity and decisions in the NIRPC Planning Area.

## ATTACHMENT A

### Northwestern Indiana Regional Planning Commission **TRANSPORTATION AIR QUALITY CONFORMITY PROTOCOL**

#### **Conformity Procedures**

##### **SUMMARY:**

This document, when submitted and approved as a State Implementation Plan revision, gives full legal effect to the following three requirements of the Federal Transportation Conformity Rule, 40 CFR part 93 subpart A:

- (1) 40 CFR 93.105, which addresses consultation procedures,
- (2) 40 CFR 93.122(a)(4)(ii), which states that conformity SIPs must require written commitments to control measures to be obtained prior to a conformity determination if the control measures are not included in a Metropolitan Planning Organization's transportation plan and transportation improvement program, and that such commitments be fulfilled; and
- (3) 40 CFR 93.125(c), which states that conformity SIPs must require written commitments to mitigation measures to be obtained prior to a project-level conformity determination, and that project sponsors comply with such commitments.

This SIP revision includes procedures for interagency consultation (Federal, State and local), resolution of conflict and public consultation set forth in 40 CFR 93.105 (consultation procedures are found in Attachment B), and provisions for written commitments for control and mitigation measures required by 40 CFR 93.122(a)(4)(ii) and 125(c) (these commitments are below). Current federal law does not require that EPA's detailed procedures for determining the conformity of plans, programs and projects be included in a "Conformity SIP". Following EPA approval of this regulation as a revision to the SIP, conformity determinations will be governed by the approved state criteria and procedures as well as any applicable portions of the federal conformity rules that are not addressed by this document.

##### **PROVISIONS FOR Written Commitments Required by 40 CFR 93.122(a)(4)(ii) and 93.125(c):**

As set forth in CFR 93.122(a)(4)(ii), emission reduction credit from control measures that are not included in the transportation plan and transportation improvement program and that do not require a regulatory action in order to be implemented may not be included in the emissions study unless the conformity determination includes written commitments, as defined in 40 CFR 93.101, from the appropriate entities to implement those control measures. The written commitments to control measures that are not included in the transportation plan and TIP must be obtained prior to a conformity determination and such commitments must be fulfilled. Consultation on these commitments will take place as a part of the consultation process prior to the conformity analysis and determination.

As set forth in 40 CFR 93.125(c), prior to determining that a transportation project is in conformity, the MPO, other recipient of funds designated under title 23 U.S.C. or the Federal Transit Laws, FHWA, or FTA must obtain from the project sponsor and/or operator written commitments to implement in the construction of the project and operation of the resulting facility or service any project-level mitigation or control measures which are identified as

conditions for NEPA process completion with respect to local CO, PM<sub>10</sub>, or PM<sub>2.5</sub> impacts. Before a conformity determination is made, written commitments must also be obtained for project-level mitigation or control measures which are conditions for making conformity determinations for a transportation plan or TIP and are included in the project design concept and scope which is used in the regional emissions analysis required by 40 CFR 93.118 and 119 or used in the project-level hot-spot analysis required by 40 CFR 93.116. Consultation on these commitments will take place as a part of the consultation process prior to the conformity analysis and determination.

## ATTACHMENT B

### **Northwestern Indiana Regional Planning Commission** **TRANSPORTATION AIR QUALITY CONFORMITY PROTOCOL**

#### **Interagency Consultation Procedures**

##### **I. Definitions**

AQCA - Air Quality Conformity Analysis  
CMAP – Chicago Metropolitan Agency for Planning  
FHWA - Federal Highway Administration  
FTA - Federal Transit Administration  
HPMS - Highway Performance Monitoring System  
ICG - Interagency Consultation Group  
IDEM - Indiana Department of Environment Management  
IDOT – Illinois Department of Transportation  
IEPA – Illinois Environmental Protection Agency  
INDOT- Indiana Department of Transportation  
INSTIP - Indiana Statewide Transportation Improvement Program  
MPO - Metropolitan Planning Organization  
MVEB - Motor Vehicle Emissions Budget  
NEPA - National Environmental Policy Act  
NIRPC – Northwestern Indiana Regional Planning Commission  
RTP – Regional Transportation Plan  
SIP - State Implementation Plan  
TCM - Transportation Control Measure  
TDM - Travel Demand Model  
TDM – Travel Demand Management  
TIP - Transportation Improvement Program  
TP - Transportation Plan  
TSM – Transportation System Management  
USDOT - United States Department of Transportation  
EPA - United States Environmental Protection Agency  
VMT - Vehicle Miles Traveled

##### **II. General**

These procedures implement the interagency consultation process as required in 93.105(b) for the Northwestern Indiana Regional Planning Commission (NIRPC) Planning Area, and include procedures to be undertaken by NIRPC, Indiana Department of Transportation (INDOT), Federal Highway Administration (FHWA), Federal Transit Administration (FTA), Indiana Department of Environment Management (IDEM), Environmental Protection Agency (EPA), local air and transit agencies (where appropriate) and other agencies not listed, before making transportation conformity determinations on the Transportation Plan (TP) and Transportation Improvement Program (TIP).

Additional details on consultation are contained in the Indiana guidance document on transportation conformity “Interagency Consultation Group Conformity Consultation Guidance, August 2007”. This guidance document provides MPOs with detailed guidance on conformity consultation and procedures but is not legally binding. Only the procedures approved into the State Implementation Plan (SIP) are legally binding.

#### Interagency Consultation Group

To conduct consultation, staff involved in conformity issues for their respective agencies will participate in an Air Quality Conformity Task Force, hereafter referred to as the “Interagency Consultation Group.” The Interagency Consultation Group (ICG) is open to all interested agencies, but typically includes, as a minimum, staff of:

- Federal agencies: FHWA, EPA, FTA
- State Agencies: INDOT, IDEM, IDOT, IEPA
- Regional planning agencies: Northwestern Indiana Regional Planning Commission (NIRPC) and Chicago Metropolitan Agency for Planning (CMAP)
- Local transit agencies: East Chicago Transit, Gary Public Transportation Corporation, Hammond Transit System, Northern Indiana Commuter Transportation District, Northwestern Indiana Regional Bus Authority, Northwestern Indiana Community Action
- Local air agencies: City of Gary, City of Hammond
- Other agencies not listed

Local transit agencies and local air agencies are included as interested parties. These agencies are welcome to provide comments and technical input on issues of local interest.

NIRPC will maintain a directory for the current membership agencies of the ICG. These agencies are responsible to notify ICG upon individual contact changes.

#### Local and State Agency Notification of Project Addition/Deletion and Change

Agencies that are responsible for the implementation of transportation projects must notify NIRPC of additions, deletions and changes of the scope and implementation time frame of each nonexempt transportation project, regardless of funding sources. At the beginning of the update process for each TP and TIP, NIRPC will solicit project information from these agencies. When project changes require an amendment of the TP or TIP, the conformity process will be activated.

#### Initial Interagency Consultation Group Meeting

NIRPC is responsible for initiating the ICG consultation when the TP and/or TIP are to be updated or amended.

The initial ICG Meeting (typically a conference call) should include, but not be limited to, all of the agencies listed above. NIRPC should schedule conference calls for a time that is acceptable to all other ICG representatives. The ICG agencies should establish the practice of having at least one staff member who can serve as an alternate contact if the primary contact is unavailable. The purpose of the initial ICG Meeting is to establish consensus regarding the TP and/or TIP update/amendment schedule, latest planning assumptions, and analysis methodology. If there are no changes, the ICG may reaffirm the existing practices. NIRPC should provide the ICG with

the necessary items as soon as possible prior to the conference call. NIRPC will respond verbally or by email to all questions and comments from the ICG members.

For transportation activities which cross the borders of the NIRPC Planning Area or nonattainment areas, or where a nonattainment area involves multiple MPOs, the conformity test methodology will clearly delineate agency responsibilities for modeling, assembly of the air quality conformity analysis document, public involvement, and how the respective conformity finding(s) will be issued. The conformity determinations for northwestern Indiana and northeastern Illinois must be completed in a combined manner until the applicable SIPs establish separate state MVEBs for PM<sub>2.5</sub> and its precursor(s).

The TP will be fiscally responsible and the TIP will be fiscally constrained. The Indiana Statewide Transportation Improvement Program (INSTIP) will be consistent with the TIP in order to comply with the regulations in 23 CFR 450.216(b). The INDOT and NIRPC will reach consensus regarding the list of INDOT-sponsored projects to be included in the NIRPC TP, project design concept and scope, and the projected year that each project is expected to be open to traffic. INDOT jurisdiction projects are fiscally constrained in the context of the INDOT Statewide Transportation Plan, and thus NIRPC will not add INDOT jurisdiction projects other than those listed in the INDOT Statewide Transportation Plan (TP) without prior concurrence from INDOT or identifying an alternate funding source.

NIRPC will prepare initial meeting minutes to document agency concurrence regarding items and all decisions made during the initial consultation meeting. NIRPC will forward these meeting minutes and the project list to the ICG as soon as reasonably possible. NIRPC can follow-up with ICG representatives as needed during the consultation period to clarify outstanding issues. NIRPC will schedule a follow-up meeting if needed (i.e. agency concurrence cannot be reached). NIRPC will also schedule a meeting if any ICG member(s) call a meeting of this group to discuss issues under the purview of the ICG as described below, including whether certain events would trigger the need to make a new conformity determination for the Transportation Plan (TP) and Transportation Improvement Program (TIP). The agency requesting the follow-up meeting will be responsible for preparing and distributing the meeting minutes from that meeting.

Persons of any organizational level in the member agencies may attend meetings of the ICG. All meetings of the ICG will be open to the public, but not necessitate official public notification.

Meeting frequency will be as needed, unless there is consensus among the ICG agencies to meet on a specific schedule (i.e. quarterly, biannually, annually, etc.). In most cases, consultation will be via conference call and/or email unless the ICG decides that certain items may require a face-to-face meeting and could not be handled via conference call or email.

### **III. Consultation for an update or amendment of the Transportation Plan (TP) and/or Transportation Improvement Program (TIP) when a new regional analysis is required**

#### a. Consultation Structure and Process

TP and/or TIP amendments that require a new regional emission analysis will be developed through the ICG. NIRPC is responsible for convening meetings of the ICG.



Early in the TP and/or TIP development process, NIRPC will develop a schedule for key activities and meetings leading up to the adoption of the TP and/or TIP. In developing the draft TP and/or TIP, NIRPC brings important TP and/or TIP related issues to the ICG for discussion and feedback. NIRPC is responsible for transmitting all materials used for these discussions to the ICG prior to the meetings, or on occasion, may distribute materials at the meetings. All materials that are relevant to interagency consultation, such as the TP and/or TIP schedule(s), important TP and/or TIP related issues, and the draft TP and/or TIP, will also be transmitted to the ICG for discussion and feedback. Similar consultation will occur with TP amendments if a new regional analysis is required. It should be noted that amendments to the TP are few and infrequent.

Public participation in the development of the TP and/or TIP will be provided in accordance with NIRPC adopted Public Participation Procedures in accordance with 23 CFR 450.

Policy decisions and actions pertaining to the TP and/or TIP are the responsibility of NIRPC and will be made through the NIRPC Full Commission or Executive Board and its standing committee structure. NIRPC staff will respond to all significant comments. NIRPC will transmit the TP and/or TIP related materials to be discussed at the Transportation Policy Committee meeting(s) to the ICG prior to the meeting, or on occasion, may distribute materials at the meetings. Staff and policy board members of the ICG agencies are also invited to attend and participate in these meetings.

#### b. Agency Roles and Responsibilities.

93.105 (b)(2)(i) requires roles and responsibilities to be addressed as part of the consultation SIP. As such, the following are the expected participation of key agencies in TP and/or TIP development and review.

Agency	Roles
NIRPC	<ul style="list-style-type: none"> <li>• Runs travel demand model (TDM)</li> <li>• Updates/amends the TP and TIP</li> <li>• Prepares the AQCA document for nonattainment and/or maintenance areas in the MPO planning area</li> <li>• Manages public review and comment period</li> <li>• Commission makes the conformity determination and adopts the TP/TIP via formal resolution</li> <li>• Provides a final copy of AQCA, TP and/or TIP packages to review agencies</li> <li>• Maintains and manages conformity process schedule</li> </ul>
INDOT	<ul style="list-style-type: none"> <li>• Submits INDOT expansion projects to NIRPC for inclusion in modeling and conformity demonstration in accordance with the established conformity schedule.</li> <li>• Provides traffic count information, HPMS VMT, and other data, as needed, to NIRPC.</li> <li>• Reviews AQCA and comments within the allotted time</li> </ul>

Agency	Roles
IDEM	<ul style="list-style-type: none"> <li>• Creates and develops state implementation plans (SIPs) in consultation with all other ICG parties</li> <li>• Develops motor vehicle emissions budgets (MVEBs) in consultation with all other ICG parties</li> <li>• Develop SIP emissions factor parameters using the approved emissions model (or delegates responsibility as agreed with other appropriate ICG parties)</li> <li>• Reviews AQCA and comments within the allotted time</li> </ul>
Local Air Agencies	<ul style="list-style-type: none"> <li>• Reviews conformity documentation</li> <li>• Provides technical guidance and advice</li> </ul>
FHWA	<ul style="list-style-type: none"> <li>• Coordinates federal review process of the conformity determination</li> <li>• Facilitate additional consultation as necessary if adverse comments are received during consultation</li> <li>• Monitors MPO conformity process schedule</li> <li>• Assists other ICG parties with commitment follow-up</li> <li>• Provides technical guidance and advice on conformity</li> <li>• Reviews conformity documentation</li> <li>• Issues United States Department of Transportation (USDOT) conformity finding letter</li> </ul>
FTA	<ul style="list-style-type: none"> <li>• Reviews conformity documentation</li> <li>• Reviews AQCA and comments within the allotted time</li> </ul>
EPA	<ul style="list-style-type: none"> <li>• Promulgates conformity regulations</li> <li>• Approves the SIP and motor vehicle emissions budgets (MVEBs)</li> <li>• Provides technical advice and guidance on conformity</li> <li>• Reviews conformity determination</li> <li>• Reviews final AQCA and submits a recommendation for conformity finding letter</li> </ul>

c. Consultation on TP and/or TP Amendment Conformity Analysis

Consultation on the assumptions and approach to the conformity analysis of the TP and/or TP Amendment will occur during the preparation of these documents. As a part of the TP, TP Amendment, and/or TIP development process, NIRPC should consult with the ICG, at a minimum, on the following topics:

- Identification of exempt projects (by list or reference)
- Discussion of which activities trigger a conformity analysis. (93.105(c)(2)(1))
- Identification of projects included in each analysis scenario
- Travel demand modeling description (assumptions, methods, geographical and functional classification coverage and VMT Summary Table for various analysis years)
- Discussion of the most recent travel survey and the need for funding of research and data collection efforts and regional transportation model development (93.105(c)(6))
- Description of the emissions modeling (emissions model used, methodology, assumptions, and sample input/output printouts)
- Description of post process analysis (including off-network VMT)

- Tabulation of analysis results, including the calculated emissions of the applicable pollutants and/or precursors, as per 40 CFR 113.118(a) and 93.119(d) showing that required conformity tests were met.
- Discussion of other relevant observations or issues.
- An outline of the progress in implementing TCMs in the applicable SIP(s) and an explanation of any delays incurred in implementing the TCMs (if applicable).
- Action(s) by NIRPC adopting the TP and/or TIP and that a finding of conformity with the SIP is demonstrated.

d. Consultation and Notification Procedures for Conformity Analysis of TIP and TIP Amendments

Consultation on the assumptions and approach to the conformity analysis of the TIP or TIP Amendment will occur during the preparation of the draft TIP or TIP Amendment. When preparing a new TIP, NIRPC will consult with the ICG on the same topics listed for the TP (see Section II.c.), as well as the additional topics listed below:

- Identification of exempt projects in the TIP
- Identification of exempt projects which should be treated as non exempt
- Determination of projects which are regionally significant (both FHWA/FTA and non FHWA/FTA funded projects)
- Development of an Interim TIP (in the event of a conformity lapse)

For TIP Amendments, NIRPC will consult with the ICG as identified below:

Consultation Required in Situations Requiring a Conformity Determination, Including But Not Limited To:

- Add a regionally significant project or project phase to the TIP when it has already been appropriately accounted for in the regional emissions analysis for the TP
- Add a non-regionally significant project to the TIP
- Add non-exempt, regionally significant project that has not been accounted for in the regional emissions analysis
- Change in non-exempt, regionally significant project that is not consistent with the design concept and scope or the conformity analysis years
- Activities that trigger a new conformity analysis and/or determination such as the effective date of adequate or approved motor vehicle emissions budgets (a new conformity determination must be made within 2 years),

The ICG review of the draft conformity analysis will typically begin during the public review period. NIRPC will request the FHWA initiate the formal conformity consultation process. This is typically done by e-mail after NIRPC has adopted the TP/TIP update or amendment and issued the associated conformity resolution(s). The ICG will respond promptly to the NIRPC staff with any comments. Members of the public can comment on the draft conformity analysis in writing or in person at NIRPC meetings prior to the close of the 30-day public review period.

The following process provides for final documents to be provided to all ICG members as required by 93.105(c)(7):

After the MPO Board approves the final conformity analysis, NIRPC will provide the final conformity analysis and documentation to FHWA and the ICG for a federal conformity finding. FHWA will initiate formal consultation and will provide 30 days for written comments from the ICG members. If appropriate, FHWA will issue the formal conformity finding on behalf of USDOT. The TP update or amendment becomes effective the date the USDOT conformity finding is issued. The TIP update or amendment only becomes effective after the USDOT conformity finding is issued, and the FHWA approves the associated TIP update or amendment into the INSTIP. NIRPC will transmit electronic copies of the final conformity analysis to the ICG members and place a final copy on NIRPC's Web site.

e. Limited Consultation Required:

TP/TIP amendments/updates that only involve exempt projects will be handled in an expedited fashion. NIRPC will forward the project list to the ICG and request that any comments be submitted back to NIRPC within 1-week if there are questions regarding the exempt status of any projects. No response from the ICG will be construed as agency concurrence in the finding that the projects are exempt. ICG members who are not available during the 1 week timeframe should appoint a backup to review these proposed amendments or with an out of office message will be given additional time. The AQCA documentation and/or resolution adopting the amendment will specifically state that the list of exempt projects was circulated to the ICG and there is ICG concurrence that the associated projects are exempt.

Likewise, an ICG meeting will not be scheduled if a TP/TIP amendment or update does not require a new regional emissions analysis. NIRPC will forward the project list to the ICG, identify which projects are exempt, non-exempt, and/or not regionally significant, confirm that each project that is included in the amendment is consistent with the design concept and scope of the project that was modeled in the most recent conformity demonstration, affirm that the open-to-traffic date of each project is consistent with the associated analysis scenario in the most recent regional emissions analysis, confirm that the previous emissions analysis is consistent with the requirements of 40 CFR 93.118 (including that conformity to all currently applicable budgets is demonstrated) and/or 40 CFR 93.119, and establish a deadline for ICG comments (minimum 2-week comment period) on the conformity determination. No response will be construed as agency concurrence. ICG members who are not available during the 2 week timeframe should appoint a backup to review these proposed amendments or with an out of office message will be given additional time. A follow-up meeting may be needed if concurrence of all agencies is not reached. The air quality conformity analysis document and/or conformity finding/resolution will specifically reference ICG consultation and concurrence in the TP/TIP amendment/update conformity demonstration.

This section addresses the requirements of 93.105(c)(1)(v).

## **IV. State Implementation Plan (SIP) Consultation Process**

### **a. SIP Consultation Structure and Process**

IDEM has responsibility for developing state implementation plans (SIPs) and, as such, needs to assure that assumptions made during the emissions analysis process are consistent with those in the appropriate SIPs. The SIP will normally be developed independently of the ICG. However, all ICG agencies will be provided with information and opportunity to participate in the development of the SIP with a focus on the setting of emission budgets and developing Transportation Control Measures (TCM) for inclusion, when and if appropriate. IDEM will provide and update schedules for SIP development that will be available to all agencies and the public. Public involvement will be in accordance with IDEM's public involvement procedures. Key documents will be posted on IDEM's website. SIP development will normally cover inventory development, determination of emission reductions necessary to achieve and/or maintain federal air quality standards, transportation and other control strategies that may be necessary to achieve these standards, contingency measures, and other such technical documentation as required.

IDEM may request NIRPC to provide the travel activity data used to develop the on-road motor vehicle emissions inventory. If new transportation control strategies or TCMs are necessary to achieve and/or maintain federal air quality standards, IDEM may request that NIRPC evaluate potential new measures. The ICG will be convened to discuss possible TCMs for inclusion in the SIP. This SIP and consultation process will define the motor vehicle emissions budget (MVEB), and its various components, that will be used for future conformity determinations of the TP and TIP. Before the draft SIP begins the public review process, the ICG will have an opportunity to review and comment on the proposed MVEB.

IDEM will circulate the draft SIP for public review, and all comments will be responded to in writing prior to adoption of the SIP. IDEM will then transmit the adopted submittal, along with the public notice, public hearing transcript and a summary of comments and responses, to the EPA.

## **V. Monitoring of Transportation Control Measures (TCMs)**

The periodic conformity analyses for the TP and TIP will include updates of the implementation of TCMs in the applicable SIP. The ICG may request more frequent updates, as needed.

As a part of the new conformity analysis for a TP or TIP, if applicable, NIRPC will document the status of TCMs that have not been completed, by comparing progress to the implementation steps in the SIP. Where TCM emissions reductions are included as part of the MVEB, NIRPC will also estimate the portion of emission reductions that have been achieved. If there are funding or scheduling issues for a TCM, NIRPC will describe the steps being undertaken to overcome these obstacles, including means to ensure that funding agencies are giving these TCM maximum priority. NIRPC may propose substitution of a new TCM for all or a portion of an existing TCM that is experiencing implementation difficulties (see below).

## **VI. Substitution of TCMs in the SIP**

After consultation with the ICG, NIRPC may recommend and proceed with the substitution of a new TCM in the SIP to overcome implementation difficulties with an existing TCM(s). The substitution will take place in accordance with NIRPC's adopted TCM substitution procedures, which provide for full public involvement. In the event of possible discrepancies between NIRPC's TCM Substitution Procedures and those in SAFETEA-LU (Public Law 109-59), the provisions of SAFETEA-LU will govern.

## **VII. Other Interagency Consultation Group Processes and Procedures**

Interagency consultation procedures for specific conformity issues are described below:

1. Defining regionally significant projects (93.105 (c) (1) (ii)): Regionally significant projects are defined as a transportation project (other than an exempt project) that is on a facility which serves regional transportation needs and would normally be included in the coded network for the regional transportation demand forecast model, including at a minimum all principal arterial highways and all fixed guideway transit facilities that offer an alternative to regional highway travel. In March 2007, NIRPC adopted guidance on the identification of regionally significant projects (Resolution 07-04). The guidance has also been incorporated into the August 2007 Interagency Consultation Group Conformity Consultation Guidance. NIRPC's travel model roadway network also includes other types of facilities for reasons of functionality or connectivity that would not normally be considered regionally significant. NIRPC will periodically review with the ICG the types of facilities and projects that are coded in the network but which NIRPC recommends should not be classified as regionally significant (and which therefore would not trigger a new regional emissions analysis if amended into the TP/TIP). NIRPC will document the decisions of the ICG for future reference. The ICG will also discuss and decide that projects would not be found regionally significant according to the modeling definition above, but should be treated as regionally significant for conformity purposes. This consultation will take place prior to the beginning of the conformity modeling analysis.
2. Determination of significant change in project design concept and scope (93.105 (c) (4) and (5)): Project sponsors should provide timely notice to NIRPC of any change in the design concept or scope of any regionally significant project in the TP and/or TIP. NIRPC will consider a significant change in design concept and scope to be one that would alter the coding of the project in the transportation network associated with the regional travel model. When a project(s) have a change in design concept and scope from that assumed in the most recent conformed TP and/or TIP, NIRPC will consider revisions to the TP and/or TIP if such a revision requires a new regional emissions analysis for the entire TP and/or TIP. NIRPC will evaluate projects that may be considered to have a change in design concept and scope and will consult with the ICG prior to advising the project sponsor as to how NIRPC intends to proceed with any request to amend the TP and/or TIP. Project sponsors should also provide timely notice to the NIRPC of any proposed regionally significant projects which should be included in TP/TIP updates prior to the beginning of the conformity analysis and

must work with NIRPC to provide for the design concept and scope of projects in sufficient detail to allow NIRPC to perform the regional emissions analysis.

3. Determining if exempt projects should be treated as non-exempt (93.105 (c) (iii)): NIRPC will identify all projects in the TP/TIP that meet the definition of an exempt project, as defined in the Conformity regulations. NIRPC will provide a list of exempt projects to the ICG for review prior to releasing the draft TP/TIP for public comment. If any member of the ICG believes an exempt project has potentially adverse emission impacts or interferes with TCM implementation, they can bring their concern to the ICG for review and resolution. If it is determined by the ICG that the project should be considered non exempt, NIRPC will notify the project sponsor of this determination and make appropriate changes to the conformity analysis, as required.
4. Treatment of non-FHWA/FTA regionally significant projects (93.105(c)(4)) : Any recipient of federal funding is required to disclose to NIRPC the design concept and scope of regionally significant projects that do not use FHWA or FTA funds. NIRPC will request that INDOT and local agencies identify all such projects prior to conducting a new conformity analysis for the TP and/or TIP. As part of the conformity analysis, NIRPC will also include a written response to any significant comment received about whether any project or projects of this type are adequately accounted for in the regional emissions analysis.
5. Projects that can advance during a conformity lapse: In the event of a conformity lapse, NIRPC will consult with the ICG to identify projects in the TP and/or TIP that may move forward. NIRPC will also consult the ICG on the process for preparing an Interim TP and/or TIP.
6. Addressing activities and emissions that cross MPO boundaries (93.105 (c)(3)): When a regionally significant project that is not exempt is proposed in another MPO's Plan or TIP crosses NIRPC's boundaries, NIRPC will review the project with the ICG to determine appropriate methods for addressing the emissions impact of the project in NIRPC's conformity analysis, consistent with EPA's conformity regulations.

## **VIII. Conflict Resolution (93.105 (d))**

Conflicts between State agencies or between State agencies and NIRPC that arise during consultation will be resolved as follows:

1. A statement of the nature of the conflict will be prepared by the agency with the conflict and agreed to by the ICG.
2. Staff of the affected ICG agencies will meet in a good faith effort to resolve the conflict in a manner acceptable to all parties.
3. If the staff is unsuccessful, the NIRPC Executive Director or designee, Management within state agencies and all other parties to the conflict shall meet to resolve differences in a manner acceptable to all parties.

4. At the conclusion of the meeting between the parties to the conflict, if the conflict is still unresolved, the 14-day clock shall start.
5. Following these steps, IDEM has 14 days to appeal to the Governor after INDOT or NIRPC has notified IDEM that either party plans to proceed with their conformity decision or policy that is the source of the conflict. If IDEM appeals to the Governor, the final conformity determination must have the concurrence of the Governor. If IDEM does not appeal to the Governor within 14 days, the NIRPC or INDOT may proceed with the final conformity determination. The Governor may delegate his or her role in this process, but not to the head or staff of the State or local air agency, INDOT, State transportation commission or board, or NIRPC.

#### **IX. Public Consultation Procedures (93.105 (e))**

NIRPC will follow its adopted public involvement procedures, which were developed in accordance with the requirements for public involvement in 23 CFR 450, when making conformity determinations on transportation plans, and programs. These procedures establish a proactive public involvement process which provides opportunity for public review and comment by, at a minimum, providing reasonable public access to technical and policy information considered by NIRPC at the beginning of the public comment period and prior to taking formal action on a conformity determination for the TP and TIP, consistent with these requirements and those of 23 CFR 450.316(a). Meetings of the ICG are open to the public. Any charges imposed for public inspection and copying are consistent with the fee schedule contained in 49 CFR 7.43. The ICG agencies shall also provide opportunity for public involvement in conformity determinations for projects where otherwise required by law.